

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: December 01, 2021

Ms. Brigitte Amiri
Mr. Andrew Beck
American Civil Liberties Union
125 Broad Street
18th Floor
New York, NY 10004

Ms. Carles Gambaie Anderson
SisterReach
2811 Clarke Road
Memphis, TN 39015

Mr. Christopher P. Burke
O'Melveny & Myers
7 Times Square, 33rd Floor
New York, NY 10036

Mr. John J. Bursch
Alliance Defending Freedom
440 First Street, N.W.
Suite 600
Washington, DC 20001

Ms. Sarah Campbell
Office of the Attorney General
of Tennessee
P.O. Box 20207
Nashville, TN 37202-0207

Ms. Alexis Rose Casamassima
Fried, Frank, Harris, Shriver & Jacobson
One New York Plaza
New York, NY 10004

Ms. Melissa Claire Cassel
O'Melveny & Myers
Two Embarcadero
28th Floor
San Francisco, CA 94111

Mr. Thomas Hauser Castelli
ACLU Foundation of Tennessee
P.O. Box 120160
Nashville, TN 37212

Ms. Kelly M. Dermody
Lieff, Cabraser, Heimann & Bernstein
275 Battery Street
29th Floor
San Francisco, CA 94111

Mr. Benjamin Michael Flowers
Office of the Attorney General
30 E. Broad Street
14th Floor
Columbus, OH 43215

Mr. David E. Fowler
1113 Murfreesboro Road
Suites 106-167
Franklin, TN 37064

Mr. Jon M. Greenbaum
Lawyers' Committee for Civil Rights Under Law
District Of Columbia
900 15th Street, N.W.
Ninth Floor
Washington, DC 20005

Mr. Mathew Hoffmann
Alliance Defending Freedom
20116 Ashbrook Place
Suite 250
Ashburn, VA 20147

Ms. Sarah A. Hunger
Office of the Attorney General of Illinois
100 W. Randolph Street, 12th Floor
Chicago, IL 60601

Ms. Kaitland Kennelly
Ms. Allison Kutner
Ms. Caroline Pignatelli
Ms. Ashlesha Srivastava
Mr. Marc Suskin
Cooley
55 Hudson Yards
New York, NY 10001

Ms. Susan Lambiase
Planned Parenthood Federation of America
Public Policy Litigation & Law
123 William Street
Floor 9
New York, NY 10038

Ms. Zhao Liu
O'Melveny & Myers
1625 Eye Street, N.W.
Washington, DC 20006

Ms. Janice Mac Avoy
Fried, Frank, Harris, Shriver & Jacobson
One New York Plaza
New York, NY 10004

Mr. Zachary Martin
Skadden, Arps, Slate, Meagher & Flom
500 Boylston Street
Boston, MA 02116

Mr. Stephen Chad Meredith
Office of the Attorney General of Kentucky
700 Capitol Avenue
Suite 118
Frankfort, KY 40601

Ms. Rabia Muqaddam
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038

Ms. Jen Samantha D. Rasay
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038

Mr. Stuart Sarnoff
O'Melveny & Myers
7 Times Square
33rd Floor
New York, NY 10036

Ms. Nigar Shaikh
Lieff, Cabraser, Heimann & Bernstein
275 Battery Street
29th Floor
San Francisco, CA 94111

Ms. Darina Shtrakhman
Cooley
3 Embarcadero Center
20th Floor
San Francisco, CA 94111

Jessica Sklarsky
Center for Reproductive Rights
199 Water Street
22nd Floor
New York, NY 10038

Ms. Priscilla J. Smith
Law Office
319 Sterling Place
Brooklyn, NY 11238

Ms. Rachel Thorn
Boies Schiller Flexner
55 Hudson Yards
20th Floor
New York, NY 10001

Mr. Edward Lawrence White
American Center for Law and Justice
3001 Plymouth Road
Suite 203
Ann Arbor, MI 48105

Mr. Geoffrey M. Wyatt
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, DC 20005

Ms. Tiseme G. Zegeye
Lieff, Cabraser, Heimann & Bernstein
275 Battery Street
29th Floor
San Francisco, CA 94111

Re: Case No. 20-5969, *Memphis Ctr for Repro Health, et al v. Herbert Slatery, III, et al*
Originating Case No. : 3:20-cv-00501

Dear Counsel,

The attached order designated for full-text publication was filed today in this case.

Yours very truly,

Deborah S. Hunt, Clerk

Cathryn Lovely, Opinions Deputy

cc: Ms. Lynda M. Hill

Enclosure

RECOMMENDED FOR PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 21a0275p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

MEMPHIS CENTER FOR REPRODUCTIVE HEALTH;
PLANNED PARENTHOOD OF TENNESSEE AND NORTH
MISSISSIPPI; KNOXVILLE CENTER FOR REPRODUCTIVE
HEALTH; FEMHEALTH USA, INC., d/b/a carafem; DR.
KIMBERLY LOONEY; DR. NIKKI ZITE,

Plaintiffs-Appellees,

v.

HERBERT H. SLATERY, III; LISA PIERCEY, M.D.; RENE
SAUNDERS, M.D., W. REEVES JOHNSON, JR., M.D.;
AMY P. WEIRICH; GLENN R. FUNK; CHARME P. ALLEN;
TOM P. THOMPSON, JR.,

Defendants-Appellants.

No. 20-5969

On Petition for Rehearing En Banc.

United States District Court for the Middle District of Tennessee at Nashville;
No. 3:20-cv-00501—William Lynn Campbell, Jr., District Judge.

Decided and Filed: December 1, 2021

Before: SUTTON, Chief Judge; MOORE, COLE, CLAY, GIBBONS,
GRIFFIN, KETHLEDGE, WHITE, STRANCH, DONALD, THAPAR,
BUSH, LARSEN, NALBANDIAN, READLER, and MURPHY, Circuit Judges.

COUNSEL

ON PETITION FOR REHEARING EN BANC: Sarah K. Campbell, OFFICE OF THE TENNESSEE ATTORNEY GENERAL, Nashville, Tennessee, for Appellants. **ON RESPONSE:** Jessica Sklarsky, Rabia Muqaddam, Jen Samantha D. Rasay, CENTER FOR REPRODUCTIVE RIGHTS, New York, New York, Thomas H. Castelli, AMERICAN CIVIL LIBERTIES UNION, Nashville, Tennessee, Susan Lambiase, PLANNED PARENTHOOD FEDERATION OF AMERICA, New York, New York, Brigitte Amiri, AMERICAN CIVIL LIBERTIES UNION FOUNDATION, New York, New York, for Appellees. **ON AMICUS BRIEF:** Benjamin M. Flowers, OFFICE OF THE OHIO ATTORNEY GENERAL, Columbus,

No. 20-5969 *Memphis Center for Reproductive Health, et al. v. Slatery, et al.* Page 2

Ohio, S. Chad Meredith, OFFICE OF THE KENTUCKY ATTORNEY GENERAL, Frankfort, Kentucky, Edward L. White III, AMERICAN CENTER FOR LAW & JUSTICE, Ann Arbor, Michigan, for Amici Curiae.

ORDER

A majority of the Judges of this Court in regular active service has voted for rehearing en banc of this case. Sixth Circuit rule 35(b) provides as follows:

The effect of the granting of a hearing en banc shall be to vacate the previous opinion and judgment of this court, to stay the mandate and to restore the case on the docket sheet as a pending appeal.

Accordingly, it is ORDERED, that the previous decision and judgment of this court are vacated, the mandate is stayed, and this case is restored to the docket as a pending appeal.

The Clerk will direct the parties to file supplemental briefs and will schedule this case for oral argument.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk